IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 7434 of 2005

Haibatrao Ganpatrao Shinde ..Petitioner

vs.

1. Dnyanoba Bhau Wasvand
and others ..Respondents

Shri Rahul S.Kate for petitioner
Smt.Sharmila S.Deshmukh for respondent nos.1, 2 land 9 to 19.
Smt.Ratna Jaiswal i/b Shri Nandu Pawar for respondent nos. 3 to 8.

CORAM: S.B.MHASE J.
10th March, 2006

P.C.

1. Heard the learned Counsel for the parties.

2. Rule. By consent, rule made returnable forthwith.

3. This is a petition filed by the original plaintiff impugning the order dated 20th September, 2005 passed below Exh.81 in Spl.Civil Suit No.163 of 2003 which is pending on the file of the learned Civil Judge, Sr.Dn., Pune. The said suit was filed for perpetual injunction and for a declaration that the sale deeds dated 7th August, 1996 and 8th January, 1998 are not binding on the plaintiffs and to declare that the said sale

deeds are bad in law. However, the plaintiff is claiming title on the basis of the registered sale deeds dated 27th October, 1983 and 1st November, 1983. In respect of the said sale deeds confirmation deed has been executed by the son of defendant no.2. By the said application below Exh.81 the petitioner/original plaintiff wanted to add son of defendant no.2 as formal party. According to the plaintiff presence of the son of defendant no.2 is necessary for adjudciation of the dispute. However, the Court has observed that he can be examined as a witness and rejected the said application. However, it is a choice of the plaintiff to add any party as a necessary party and/or formal party for final adjudication of the controversy between the plaintiff and defendant. Therefore, such an application should not have been rejected. The reason given for rejection of the said application is very casual. Therefore, order dated 20th September,2005 passed below Exh.81 in Special Civil Suit No.163 of 2003 is quashed and set aside. The said Application below Exh.81 is allowed and son of defendant no.2 is permtited to be added as party to the original suit. Rule made absolute accordingly with no order

as to costs.

(S.B.MHASE J.)